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GOVERNMENT OF INDIA

MINISTRY OF LABOUR

NOTIFICATION

*New Delhi, the 22nd July, 1949*

**No. LR3(75).**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between the workmen employed in Tezpur Balipara Railway and the management.

REFERENCE No. 1 OF 1949.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Before F. Joejeebhoy, Barrister-at Law.—*Chairman.*

*Parties.*—The Workmen employed in Tezpur Balipara Railway

AND

Their Employers, represented by McLeod & Co., Railway Department,  
28 Dalhousie Square, Calcutta.

*Appearances :—*

*For the Workmen :—*Sri Dwijendra Lal Sen Gupta (Counsel), Sri Mohi Kant Das, President of Tezpur Balipara Railwaymen Union, Sri K. P. Tripathy, President of Tezpur Balipara Mazdoor Union.

*For the Company :—*Sri Satish Sen, with Mr. D. A. Neame, an officer of the Company.

AWARD

By Notification No. LR-3(75), dated 12th, 16th April 1949 the Central Government has referred to this Tribunal for adjudication an industrial dispute between the Workmen employed in the Tezpur Balipara Railway and its Management. The concern is known as the Tezpur Balipara Tramway Co., Ltd.

This Railway covers a short span of 20 miles between Tezpur and Balipara in Assam. It serves in the main the tea estates in the vicinity, bringing down tea and other produce to Tezpur, and taking up to the estates their stores. Two-third of the traffic is goods and one-third passenger. McLeod & Co., of Calcutta are the Managing Agents of this Railway, and their local agents at Tezpur are Kilburn & Co.

After the workmen had filed their statements of claim, and the employers had filed their written statement, and a reply had completed the pleadings, I framed by consent the following issues :—

#### ISSUES :

1. Should the basic pay and dearness allowance be increased so as to conform to the standard in the Pay Commission Report or otherwise.

2. Should Standing Orders be passed for the workmen of this concern, and should any directives be given regarding leave, working days and hours, and promotion, rules of punishment, discharge, dismissal, retrenchment.

3. Were the following seven persons discharged or dismissed as a result of any unfair practice of victimisation and should they be reinstated or given any other relief:

- (a) Sri R. C. Dey,
- (b) Sri J. C. Chaudhury,
- (c) Sri Rabiram Saikia,
- (d) Sri Golap Chandra Saikia,
- (e) Sri Hari Kampti,
- (f) Sri Tilok Nagar, and
- (g) Sri Meghu Saha.

4. Are the following six persons entitled to any payment for the period between their dismissal and their being taken back:

- (a) Sri Nakuleswar Ganguly,
- (b) Sri Nirshu Roy.
- (c) Sri Someswar Koch,
- (d) Sri Bhuban Chandra Bara,
- (e) Sri Bhumidhar Bara, and
- (f) Sri Akshoy Chandra Dey.

5. Should the contract system of labour in this concern be abolished or should any directives be given in the matter.

6. Should any orders be made regarding quarters for staff or anything in lieu thereof.

7. Should the workmen be given free passes or anything in lieu thereof.

8. Should any retiring gratuity be ordered.

9. Should the Contributory Provident Fund be extended to all the employees.

10. Should any orders be made regarding educational facilities.

11. Should any orders be made about the amenities of the workmen.

12. Should any orders be made about medical attendance.

Relevant to the principal issues is the history and the working of this Railway after the year 1940. Mr. D. A. Neame had been the Traffic Superintendent at Tezpur until he left for war service on 26th January 1942. After his departure the work of the Traffic Superintendent was split up between :

- (a) the Traffic Controller,
- (b) Accountant, and
- (c) Local Agent, represented by the Tezpur Manager of Kilburn & Co.

The Company had started in business with a capital of four lacs of rupees and made good profits during the war years; but at the same time the Company was required to pay Extra Profits Tax with the result, I am told, that profits above Rs. 40,000 in the war years were taken away. After the war the profits have dwindled and in the last two periods of six months each this concern has worked at a substantial loss. Investments have had to be sold (partly to pay income-tax in arrears) and at present are down to something like  $2\frac{1}{2}$  lacs, reserves have disappeared and the Company has had to dip into assets to meet expenditure. The Company has not paid any dividend on ordinary shares from 1933 or on preference shares from 1938, except for a single declaration of 6% dividend on preference shares and 10% on ordinary shares in 1943. The Government has had the option to purchase this concern but has declined to exercise it so far; the next date for the exercise of such option is 1951, and the Company is willing that the Government should take over the concern at once.

The workmen of this Railway had certain grievances against the Company which they asked should be rectified, but as the Company did not respond they submitted statement of claims and gave notice of strike, to commence from 16th November, 1947. Mr. Talib, the Regional Labour Commissioner (Central), promptly took matters in hand and started his work of conciliation. He had discussions with the Union as well as with the employers, and ultimately he sent the Company a letter dated 1st December 1947 (Ex. 38—copy annexed) in which he suggested terms for the acceptance of the Company. The Company replied by their letter of 6th December 1947 (Ex. 39—copy annexed) accepting the gradings and the pay scales which were suggested by the Regional Labour Commissioner. One or two minor adjustments followed and the wage structure was finalised in May 1948, just about a year ago, with the consent of both the parties. It was then decided that Dearness Allowance was to be given at a flat rate of Rs. 25 per month and would continue to be paid to all the employees in addition to their pay, and would be withdrawn gradually in accordance with the downward trend of cost of living index, if and when it occurred.

Mr. Talib's letter (Ex. 38) of 1st December 1947 referred to certain other disputes between the parties, reference to which will be made later in this award.

The Company duly implemented the new wage structure and carried out Mr. Talib's other recommendations. But six months later, in October 1948, the Hon'ble the Minister for Labour of the Government of India visited this area, and the workmen took the opportunity of presenting to him a booklet of their grievances (Annexure A of workmen's written statement), asking that their claims might be referred to a Tribunal. In effect they wanted a revision of the pay structure settled six months previously. This reference is said to be the result of that representation.

*Issue No. (1) :-* The lowest paid workmen at present get a basic pay of Rs. 26 and Dearness Allowance of Rs. 25, plus free housing for about 30% of the workmen; these houses are given by priority to those persons who are by reason of their duties required to reside near their work. The other grades have a higher basic salary in due proportion to the basic salary of the lowest paid group, and they too get a flat rate of D.A. of Rs. 25 a month. The workmen now claim that their basic pay and D.A. should be increased so as to conform to the standard laid down in the Pay Commission's Report. They contend that it may well be that their basic salary is

more than double of what prevailed in 1939, but they desire to be placed on the same scale as the Government Railway Staff. They also claim that the Dearness Allowance should be on the basis of the Pay Commission's Report, which means Rs. 25 at a cost of living index of about 260 rising by Rs. 5 for every 20 points increase of living index; and that at the least they should get the same scale of Dearness Allowance for their clerks and skilled workmen as is paid to the clerical staff of the Steamer Companies operating from Tezpur.

On this subject of wage structure, I have previously laid down the following principle :

"The workmen must first be given a reasonable minimum wage; and it has been said by Authority that an industry which is unable to pay a reasonable minimum wage has no right to exist; the workmen are entitled, in addition to minimum wage, to reasonable advances consistent with the industry's ability to bear it; and this subject must be approached with an appreciation of the background of the industry, its present day condition, and its reasonable expectations of the future."

As regards the application of the Pay Commission's Report, paragraph 50 of the Report of the Commission discusses the question of a reasonable wage. The Commission come to the conclusion that Rs. 55 a month seems to represent a reasonable living wage for a working class family at a cost of living index of about 260. Some provincial representatives, however, expressed doubt as to the capacity of their provinces to pay their lowest grade employees anything more than Rs. 35 to Rs. 40, and among the members of the Commission opinion was not unanimous. The majority of the members agreed that Rs. 55 a month would be a fair minimum wage at a cost of living index of 260, split up into Rs. 30 as basic pay and Rs. 25 as Dearness Allowance. In this connection it is pertinent to observe that the Provincial Governments have not adopted the Pay Commission's Report as to their own employees; for instance in Bihar the lowest paid Government employee gets Rs. 17/8/- as basic salary and Rs. 17/8/- as Dearness Allowance in accordance with the latest revision of pay. It is, therefore, not possible to subscribe to the view that the Tribunal must inevitably and in every case neutralise to the full advances in the cost of living index or at the rates stated in the Pay Commission's Report; but it is manifest that basic pay and Dearness Allowance must have some relation to actualities. This view finds support from the recent proceedings of the Fair Wages Committee, as reported in the Press. The Committee has made the necessary distinction between a minimum wage and a living wage. They recommend that the minimum wage should represent the lower limit of the fair wage, the upper limit being the capacity of the industry to pay; furthermore the members have recommended that basic pay should be fixed, in respect of cost of living index at 160 on base 1939=100. The Committee favoured the continuance of the present method of compensation by grant of Dearness Allowance.

Applying the above principles, the history of this Railway for the past years, its present position, and its normal expectations of the future must all be considered.

As regards the basic wage and the gradings, these were settled as I have said in 1948 by agreement between parties with the help of the Regional Labour Commissioner (Central); a detailed scheme was worked out and the workmen were divided into separate categories having separate basic salaries. It is now said that I should interfere with that arrangement and decide afresh in detail.

It is said that the Pointsmen, Gangmen and Porters should be placed in the grade of Rs. 36 to Rs. 60 on the ground that they are semi-skilled. It is also said that all Turners should be paid the same salary as the Head Turner. While it is true that the Pointsmen, Gangmen and Porters do work which is different to the work of the other lowest paid employees, it must be remembered that this is a small Railway with limited activity and also limited resources; it is running at a loss and is

suffering from the effects of high prices; I am told that the price of coal is Rs. 100 a ton in Tezpur. I have no doubt that the Union as well as the Company carefully considered all material factors when they had their discussions with the Regional Labour Commissioner in 1947-48; and I do not feel that I should interfere in the arrangement which they then reached specially as the basic salary is at least double of what it was in 1939. It is also to be observed that the categories and their gradings then settled did not proceed on any basis of unskilled, semi-skilled or skilled; categories were grouped together in manner considered just and equitable, and no doubt after careful consideration. I am not prepared to alter that arrangement in the light of present day conditions of this concern.

As regards the Dearness Allowance, the Union claims that it should be given at the rate of 80% of the basic pay with a minimum of Rs. 49. Needless to say this would upset all wage levels in the locality, but I shall consider the subject from other aspects.

The workmen contend that they should get at least the same Dearness Allowance as is paid by the Assam Railway which would mean Rs. 35 a month for those in receipt of basic salary up to Rs. 45. It is also said that the River Steam Navigation Company (McNeil & Co., Agents) and the India General Navigation and Railway Company (Kilburn & Co., Managing Agents) give to their lowest paid staff Dearness Allowance of Rs. 25 as in this Railway, but give to the clerical staff a minimum of Rs. 30 on the following basis:

|                                 |     |
|---------------------------------|-----|
| (1) First Rs. 100 basic salary  | 40% |
| (2) Second Rs. 100 basic salary | 20% |
| (3) Thereafter                  | 10% |

The Tea Estates give substantial food concessions but it is difficult to co-relate them in terms of percentage of basic wage; the lowest paid adult gets As. -/7/- to As. -/8/- basic wage and Dearness Allowance As. -/5/6. The Steamer Companies also give certain food concessions; but although the clerical staff of the Steamer Companies get a higher rate of Dearness Allowance, the lowest paid employee gets only Rs. 15 as basic salary (Ex. 25).

Sri Sen for the Company has urged that there has been no change of circumstances to justify a change in the wage structure; the Company apprehends a substantial loss in the running of this concern this year also due to a higher wage bill, diversion of traffic and competition from buses; in fact he says it is difficult to raise the freight on tea garden stores beyond a certain point in case the tea gardens decide to utilise their own lorries for transport. The Railway Board has permitted increase of passenger fares but subject to such conditions that there is actually no advance, and this has been proved; an increase in freight has been allowed, but unfortunately the traffic has been lost to the Steamship Companies; the Assam Railway has not had enough wagons to feed this line, and the traffic has thus become riverine. Sri Sen presses that the Company has eaten up its reserves, sold the major part of its investments, and is running at a loss, and that the present investments in cash amounts to not more than 3 lacs of rupees. The attention of the tribunal was drawn by Sri Sen to the wage structure of (a) the Darjeeling Himalayan Railway (*Calcutta Gazette* of 19th February 1948), which by comparison with this concern pays a lower scale of wages, even though it has 500 workmen as against half the number in this concern and is a Class II Railway with an income of over 10 lacs of rupees a year whereas this Railway falls under Class III; and (b) the Bengal Provincial Railway, in respect of which an award was given earlier this year by my learned predecessor here; Sri Varma held that in several awards of West Bengal the capacity of the employers to pay had been taken into consideration, and he quoted the case of the Calcutta Steam Navigation Company Ltd., he held that under the then financial state of that Railway he would allow Rs. 5 per head at a flat rate as a token Dearness Allowance to the workers; and he hoped that when the financial condition of the

Railway improved it would be possible to give Dearness Allowance in accordance with recognised standards. Sri Sen contends that there is no evidence of rise in the cost of living from May 1948: a chart for Gauhati shows a rise of only 12 points between May 1948 to January 1949.

Sri Sen Gupta for the workmen bases his case for increase of D.A. (and basic pay) on two grounds:

- (a) That the cost of living has advanced since the date of the agreement of parties in May 1948, and
- (b) That the agreement of the parties of May 1948 was induced so far as labour was concerned by the pressure of conciliation proceedings which resulted in their accepting less than what they should have got.

I do not find sufficient evidence to indicate any substantial advance in the cost of living between May 1948 and today in Tezpur; Sri Das the President of the Union has stated that it had advanced by 100 points, but there is nothing tangible to support it. I do not doubt that there has been some advance in the cost of living but whether it is sufficient to make any difference to the wage structure is problematical. As regard the agreement of the parties of May 1948, if I were to accept Sri Sen Gupta's second contention, it would destroy the foundation and value of conciliation proceedings. If I was satisfied that the living index had advanced appreciably between the date of the agreement and the present time I would be inclined to give an increase of D.A., provided that the Company was in a position to bear the additional burden.

I have already adverted to the unsatisfactory finances of the Company. The wage bill before the Conciliation Proceedings amounted to Rs. 9,000 per month of which the workmen received Rs. 7,000; the wage bill now is about Rs. 14,000 per month of which Rs. 3,200 is the total remuneration of the Managing Agents, the Local Agents, the Traffic Superintendent, the Loco Superintendent and the Medical Officer. The Union takes the view that the Company is not making adequate profits because of its administrative inefficiency; the Union wants that all workmen above 60 should be retired and new men appointed in their place; they also desire that the Medical Officer, who is paid Rs. 400 a month, should be replaced by younger man who they say, would be prepared to accept less than half that amount. The internal administration is, however, a matter as to which the Company itself must decide, and it can be safely assumed that the Management is fully alive to the necessity of increasing earnings; it would be strange indeed if this concern, with the near possibility of acquisition by the Government, did not exert to show itself at its best. As to the Union's suggestion that everybody over 60 should be retired, the Company does not feel justified in getting rid of its older and experienced employees if they are fit for their work. And concerning the Medical Officer, I cannot help feeling that the Union's suggestion to replace him by a cheaper Doctor is inspired less by a desire to benefit the Company than by the hope of satisfying a personal grudge which appears to exist between Sri J. C. Chaudhury of the Union and the Medical Officer. As to the Union's contention that profits must increase because of the advance which the Government has allowed in freight and fare, it has been shown that such a contention is not well founded in fact. Lastly, a suggestion was made by the Union that Meleod & Company, Managing Agents of this concern as well as of other concerns in the vicinity, were depressing the freight charge for carriage of coal to benefit the other concerns at the expense of this Railway. There is nothing to support this. It has been explained that as a business proposition the Company has been obliged to charge a flat rate for coal for all stations on this short line.

I have given very careful consideration to the question of increasing the Dearness Allowance of this concern. Compared to what is being paid by comparable Railways in Bengal like the Darjeeling Himalayan Railway and the Bengal Provincial Railway, the rate of D.A. given by this Company is satisfactory; and I have no reason to think

that the cost of living index in the Darjeeling area or in the Hoogly area is less than at Tezpur. Compared, however, to local standards of Tezpur (but not for similar categories), the D.A. appears to be a bit on the lower side. On the other hand it cannot be said that the basic pay plus Dearness Allowance at present represents the lowest scale of a fair wage by comparison with general wage levels round about. If the financial position of the company had been sounder, I might have been inclined to raise the D.A., but under present circumstances to advance the D.A. would amount to placing a burden on the Company which its resources will not be able to bear.

*Issue No. (2).*—This issue deals with Standing Orders. There are no Standing Orders at present, and I direct that the Company shall within three weeks of the publication of this award take steps under the Industrial Employment (Standing Orders) Act 1946 to frame its Standing Orders subject to the following directions:

(a) Leave : The workmen claim that the leave which they are given is not sufficient. The Company grants privilege leave of 30 days per annum on full pay, Casual leave 10 days subject to a maximum of 3 days at any one time, and sick leave 15 days per annum with full pay with the condition of 2 months with half pay and 4 months without pay; all Sundays are paid, 8 festival holidays are allowed, and all Government holidays are paid. In my opinion the leave terms of this concern are generous and do not call for any revision. The Company allows accumulation of privilege leave for two months, and that should be incorporated in the Standing Orders.

(b) As regards working days and hours in the workshop, the Company applies the Factories Act; and as to the rest it conforms to the practice of Railways generally. I see no reason to alter these.

(c) It is said that the telegraphist has to stay on duty for unduly long periods. The Company states that the Station Master is also the telegraphist; he is not continuously on duty; after letting through a train he goes away. If a message comes while he is away, the message is repeated later when he returns to work. The traffic on this railway is limited and actually his work is intermittent and his duty hours must be treated as such.

(d) As regards promotions, there is no contest that other things being equal the next senior man should be selected for promotion; but in my opinion it would be detrimental to discipline and efficiency if promotions were ordered to proceed on seniority alone. I think that the following should provide an adequate guide :

(i) Other things being equal, promotion is to be by seniority; but if a man is not to be promoted by seniority, the final orders of the Managing Agents shall first be obtained. Before promotion is made, or in order to confirm promotion, the Management shall be entitled to be satisfied as to the fitness of a workman for promotion, if necessary by individual tests relating to the work which he will be required to do. If the Departmental Head does not propose to promote the next senior man he shall inform him thereof, in which case the latter shall be entitled to make a representation to the Managing Agents through the Works Committee or direct if he so likes. Such representation shall be made forthwith so that the decision of the Company may not be delayed. The President or the Secretary of the Union may also interview the Local Agent concerning such promotion but before final orders are passed. (I do not favour the idea of the Company's stating in writing the reasons for supersession, and the Union agrees with me that it may prejudice the workman's future.)

(ii) Wherever Government certificates are required they shall be considered essential for appointment or promotion.

(iii) Normally promotions will be within the same group, but the workman will be given the chance of transfers when vacancies occur (subject to the claims of others who may be affected thereby).

(e) As regard discharge and dismissal, the Draft Standing Orders under the Central Rules are a suitable guide to be incorporated in the Standing Orders.

*Issue No. (3).*—This issue relates to :

(a) Discharge of Rabiram Saikia, Golap Chandra Saikia, Hari Kampti, Tilok Nagar and Meghu Saha;

(b) Dismissal of Sri R. C. Dey, and

(c) Discharge of Sri J. C. Chaudhury.

(a) On 1st October 1947 eleven persons including the five above-named were discharged as being surplus to requirement. The Union complains that they were victimised, and allege that because the Union had pressed the Management for increase of salary and other benefits, the Management in retaliation had discharged these persons in "order to terrorise the workmen and to humiliate the Union." It appears that the Union submitted certain demands to the Company on 18th December 1946; the grievances received attention of the Assistant Labour Commissioner of the Government of Assam on 4th March 1947 and he forwarded his recommendations on 20th March 1947 to the Company for acceptance; the Regional Labour Commissioner directed the Company to implement the same by his letter of 13th May 1947. Then again in early September 1947 Mr. Neame of the Company proceeded to Tezpur, and had talks with the officers of the Union, as a result of which certain decisions were reached which he proposed to place before the Directors. While in Tezpur on this occasion Mr. Neame had an opportunity of inspecting the condition and working of the Railway and observed certain changes which had taken place during his absence with the forces. According to Mr. Neame, he found that extra hands had been taken during his absence, that they were doing no work and were surplus to requirement, and as a measure of economy he decided to retrench 11 of the employees. He denies that he had any intention of creating terror by such retrenchment or of humiliating the Union. The subject of these 11 men was considered by Mr. Talib, the Regional Labour Commissioner (Central). He directed the Labour Inspector Sri Roy to make an investigation into this matter. Sri Roy gathered facts *ex-parte* from amongst the workmen and came to the conclusion that with the absence of these eleven men a heavy burden was thrown on the other workmen; Mr. Neame protested to Mr. Talib as to certain inaccuracies of fact contained in Sri Roy's report; and ultimately Mr. Talib had a conversation with the Union on the subject, and with their consent he suggested to the Company by way of compromise that at least one discharged man from each category (*i.e.* 5 out of 11) having greater length of service than the other discharged men in the same category, should immediately be put back to work; with regard to the rest it was suggested that their claims should be given priority in future recruitments. The Company agreed to these suggestions and took back five men and later on absorbed a sixth man on their own initiative. I have not been able to find any indication of victimisation in what the Company did in this matter; the Union endeavoured to prove that each of these eleven persons was victimised for his Union activities; but beyond the fact that they were members of the Union, there seemed to be no close connection between the retrenched men and their Union; and since practically every workman was a member of the Union, it is untenable to suggest that these eleven were victimised because of their Union activities. Considering the financial position of the Company and the need for economy, it is not surprising that Mr. Neame should have effected retrenchment of what he considered to be surplus to requirement after the war years. The issue as to these eleven persons is answered in the negative.

(b) Sri R. C. Dey joined this Railway as a Travelling Ticket Checker in 1942 then became a parcel clerk and a booking clerk, and was last posted as Assistant Station Master, Rangapara North, in order to relieve the Station Master who was ill. He worked there for 20 days and was suspended on 5th January 1948. On 20th December 1947, by Ex. J1, the Company wrote to Sri R. C. Dey to the effect that it



had been brought to their notice that he was in the habit of visiting Tezpur by 8 Dn. train daily returning by 1 Up next day, and he was asked to explain by whose permission he left his station and how he received the line clear message from SM-TKTB by 1 Up daily when he was in fact travelling by the same train. By his letter of 26th December 1947 (Ex. J2) Sri R. C. Dey replied that he was compelled to visit Tezpur daily by 8 Dn. train and other transport because the Company had not arranged any quarters for him at Rangapara; he did not think that permission was necessary to visit Tezpur occasionally. Regarding line clear, he stated that SM-RPTB need not receive any kind of line clear from SM-TKTB by 1 Up train. By letter of 29th December the Company said that that explanation could not be accepted; if Sri R. C. Dey had been unable to make any arrangement for his housing he should have informed the Company so that other arrangements could have been made; he was referred to Traffic Circular No. 5 and also general rules of the State Railways, and he was informed that regarding line clear and train passing, what he had done was against Rules, and he was asked to give a further explanation; shortly thereafter he was suspended. On 28th January 1948 formal charges were delivered to him and he was asked to submit his defence. His explanation is dated 11th February 1948, in which he states that it was not a fact that he used to leave the station in the evening and travel by next morning 1 Up train, and he characterises this allegation as baseless and engineered out of spite, altogether forgetting that in his first letter he had not only admitted the charge but had tried to justify it. It is part of his explanation that only on one occasion on 18th December 1947 he came by 8 Dn. train to Tezpur as he had no rations, and he returned by car on the same day after about 3 hours; he tried to contact Tezpur for permission but could not get through; he further explained that he did not travel by 1 Up on 19th December as alleged and he was at Rangapara station at train time, and the line clear for 1 Up train was received by him. The Company took further evidence on the subject, found him guilty of the charges, and dismissed him.

The Union has contended in the first instance that the dismissal of Sri R. C. Dey was an act of victimisation, but when the facts became apparent, the Union's next contention was that the dismissal was too harsh a punishment. Now, the holding of the enquiry and the order of punishment are functions of the Management, and as I have said in another connection, I am not an appellate or a revisionary authority. I shall certainly interfere if there is any unfair labour practice or violation of the principles of justice or victimisation, but otherwise I do not propose to substitute my own judgment for the judgment of those who in the ordinary course are required to consider these matters and give their decisions. I may however add that I do not consider dismissal in the circumstances of Sri R. C. Dey's case as unduly severe. His two contradictory explanations show that no reliance could be placed upon his statements, and it is obvious that his later explanation was formulated after he had had the opportunity of working up a defence. It is bad enough that he should have been guilty of a serious breach of Railway Rules involving the safety of trains; it is equally bad that he should have attempted to work up a false defence. No interference by this tribunal is indicated in his case.

(c) *Sri J. C. Chaudhury* :—The discharge of Sri J. C. Chaudhury has been the subject of much controversy before me. Sri Chaudhury first joined this company in 1935 on a salary of Rs. 20. By 1941 he was a Traffic Canvasser on a salary of Rs. 36 per month, working under Mr. Neame, who had a good opinion of his abilities and character. Mr. Neame had decided to leave in January 1942 for war service, but before he left he spoke to the Local Agent about Sri Chaudhury and told him to try out Sri Chaudhury for 6 months before confirming him. After Mr. Neame left his post of Traffic Superintendent in early 1942, the duties of the post were divided and allocated as follows :—

- (a) a "Traffic Controller" was created and to this post Sri Chaudhury was appointed in terms of a letter which is Ex. Z (Copy annexed);

- (b) a second section consisting purely of accounting and audit was to be in charge of Sri P. K. Dey as "Accountant"; and
- (c) the Local Agent was to deal with all staff matters, claims, and general correspondence.

Ex. Z which is Sri Chaudhury's letter of appointment is dated 28th March 1942; his appointment started from 1st April 1942. His duties included :

- (a) Placing of wagons,
- (b) Rates,
- (c) Clearance of all cargo,
- (d) Maintenance of earnings graphs,
- (e) Traffic canvassing, etc.

He was exhorted by the terms of that letter to pay particular attention to economy, and his duties were exclusively Traffic and Traffic Control and entirely separate from Audit and Accounts. All orders by Sri Chaudhury were to be issued in consultation with the Local Agent.

At this stage I should mention that prior to his appointment as Traffic Controller in April 1942, Sri Chaudhury is said to have obtained from the Local Agent (whose name I think should be excluded from this record) a letter which is marked Ex. T and is dated 17th November 1941. The contents of that letter are as follows:—

EXHIBIT.

*"Re: HANDLING CONTRACT : VERBAL REPRESENTATION.*

With reference to your verbal representation you are allowed to take Military and Civil handling contracts on the condition that you will not use company's labourers and that company's work is not suffering, also you are permitted to take other carrying contract which is not detrimental to company's interest.

PRO. KILBURN & Co.

(Sd.)

*Local Agents."*

The wording of this letter is somewhat peculiar considering that it purports to have been written by the Local Agent of Kilburns; and it is not irrelevant to remark that this letter was given at a time when Mr. Neame was the Traffic Superintendent and Sri Chaudhury's immediate superior officer; I accept Mr. Neame's statement, unchallenged as it is, that he knew nothing about this letter and that in the ordinary course no such letter could have issued without his knowledge. Sri Chaudhury was at that time a Traffic Canvasser on a salary of Rs. 36 a month, and it is not denied that in consequence of the contracts so allowed to him he made for himself something like half a lac of rupees. The Company states that they knew nothing about this letter until 1947 when it was first produced by Sri Chaudhury on his own initiative; and this also has not been challenged. The Local Agent who Sri Chaudhury states, gave this letter (Ex. T) was replaced in Tezpur in November 1943.

In 1943 or thereabouts it became apparent to the Directors that the work to which Sri Chaudhury had been appointed was too big for him; it was confirmed during a visit to Tezpur by Mr. Dalmahoy, one of the Directors, in 1944, in consequence of which Sri Chaudhury was relieved of his more responsible duties. Ex. AA is

the letter appointing Mr. Horn as the actg. Traffic Manager from 18th February 1944 until Mr. Neame returned from military service; he was made responsible for the allocation of wagons and was to maintain an up-to-date register of freight offering and wagons available; the Traffic Controller was to obtain his approval before allocating any wagons. Of the several duties allocated to Sri Chaudhury as Traffic Controller, he was gradually divested of all except items (a) and (c) of Ex. Z.

When Mr. Neame returned from war service in March 1947 he did not rejoin as Traffic Superintendent; as it was decided to keep him at the Head Office in Calcutta. The Directors informed him that it was their intention to appoint a Traffic Superintendent and that they had decided that the war time arrangement should cease. In June 1947 Sri Chaudhury interviewed Mr. Neame and said that he should be appointed the Traffic Superintendent; the Directors had already taken the view that he was not suited for the post, but Mr. Neame assured Sri Chaudhury that his request would be considered. When Mr. Neame was in Tezpur in 1947 he had an opportunity of personal inspection, and found much that was unsatisfactory; additional hands had been taken who were idle, while at the same time the earnings had dwindled; he stayed there for 10 days and during that period made a surprise check along with the Local Agent at an intermediate station. He had asked Sri Chaudhury previously as to the reason for the drop in Sunday earnings and had received the reply that traffic had been reduced owing to people leaving for their fields. At Station Bindukuri, two trains were checked by Mr. Neame and the Local Agent, and after the trains left the station, the earnings for the day were found to be 100% higher than in the previous week, and the only explanation that Sri Chaudhury could offer was that passengers had suddenly returned from the fields. Sundays are apparently busy days for passenger traffic as four markets are held on the line; merchants from Tezpur travel by train to these markets with their produce, and the tea garden labourers likewise use the Railway to go to the markets. The graphs which have been produced showing the Sunday earnings from 1945 are instructive. Until September 1947 they varied from Rs. 200 to Rs. 600 each Sunday; after the check they rapidly rose to Rs. 800 and Rs. 900 and in January 1948 reached the figure of Rs. 1,000; and the higher levels had been successfully maintained.

The Company, in pursuance of its decision to appoint a Traffic Superintendent, did appoint one as and from 1st October 1948, but it was not Sri Chaudhury to whom a notice of termination of his services was given by letter of 27th October 1948. The Company states that the post of Traffic Controller which Sri Chaudhury held was abolished, and they could not revert Sri Chaudhury to the post of Traffic Canvasser as that post also had been abolished; the Traffic Superintendent under the new set up had lesser duties and thus absorbed the duties of Traffic Canvasser.

It is urged by the Union that the discharge of Sri Chaudhury has been an act of victimisation, because he was an active member of the Union and had thereby become a *persona non grata* with Mr. Neame. It is urged that his discharge was the ultimate of a series of acts adverse to Sri Chaudhury. It is said that while his basic pay had been fixed at Rs. 175 he was actually given Rs. 158; that his daily allowance of Rs. 2 was denied after September 1947; and that his house was searched in his absence and a fan was seized which was returned to him by the Court in December 1947.

The Company's reply to these charges may be summarised thus: The Company states that the matter of Sri J. C. Chaudhury is not an industrial dispute within the meaning of the Act inasmuch as Sri Chaudhury was not a workman or a clerk but a member of the supervisory staff; and that he was acting improperly in joining the Union and taking an active part in the disputes of the workmen with the Management. This Tribunal has no doubt that so long as Sri Chaudhury was a Traffic Controller his duties were supervisory, and that he could not be called a clerk so as to come within the meaning of a workman under the Act; and this Tribunal therefore

has no jurisdiction to consider his case. In case I am wrong in this conclusion, I have decided to deal with the facts in order to ascertain whether he was in fact victimised.

I think it is evident that the Management would be less than human if their estimate of Sri Chaudhury's character was not affected by the happenings of 1942 and 1943 when Sri Chaudhury made large sums of money by way of private contract at a time when he was a whole-time employee of the Company. Likewise the Company could not have been happy to discover that it had been consistently losing Sunday earnings during the period when Sri Chaudhury was a Traffic Controller; and as to this it is immaterial whether Sri Chaudhury alone or along with others was responsible for it; it meant negligence, if not something much worse. So far as Sri Chaudhury's appointment to the post of Traffic Superintendent is concerned, the Company was entitled to make its selection for this important post, and cannot be blamed if in the light of what had gone before it declined to select Sri Chaudhury for that appointment.

The case of Sri Chaudhury was raised in a memorandum submitted to the Hon'ble Minister of Labour in October 1948. The Union had also pressed Mr. Talib to examine the subject, and Mr. Talib in his letter (Ex. 38) had dealt with it; as there were charges of corruption and dishonesty against Sri Chaudhury, Mr. Talib considered it desirable that Mr. S. H. Moitra, I.C.S., Deputy Commissioner, Darrang, should go into the question of Sri Chaudhury's claim for promotion. A copy of the Deputy Commissioner's report was sent to the Company, and Mr. Talib suggested that no action should be taken by the Company against Sri Chaudhury arising from the contents of that report without giving him a chance to defend himself or explain his conduct. The Company did not frame any charges on that report or at any other time, and indeed the report merely confirmed that the Company already knew of Sri Chaudhury.

Prior to all this Sri Chaudhury himself had written to the Company on 6th June 1947 a letter Ex. 6 (copy annexed) to the effect that attempts had been made by interested persons to create doubts in the mind of the Company regarding his "honesty and faithfulness," for his having constructed a house and purchased an old motor car, "concealing the fact that for all these his income from the military contracts was responsible, which made the financial position of the undersigned quite sound". Sri Chaudhury goes on to explain that he was compelled to undertake the handling contract under the Military Officer who met the Local Agent at a meeting and forced Sri Chaudhury to accept the job and help the war effort; (but strangely enough, it may be added, it was kept a secret from Mr. Neame, his immediate superior officer).

As to the specific acts alleged by the Union as pointers to victimisation, the Company has explained that during Mr. Neame's absence, Sri Chaudhury had been given a daily allowance of Rs. 2 whereas nobody else received it; he was given a house rent allowance of Rs. 30 which also had no basis, and this was later so adjusted by the Company that his total emoluments were not affected when the new wage structure was applied; and as to the seizure of the fan the facts are still too nebulous to enable me to draw any adverse conclusion.

From the Exhibits which have been filed it would appear that the Medical Officer of the Company was at one time the Chairman of the local Municipal Committee; Sri Chaudhury was a Municipal Commissioner; and between the two of them there does not appear to have been much friendliness. But the Company did not in any way take sides in this matter, and there is no justification for the charge that the Company has victimised Sri Chaudhury to satisfy the Medical Officer. The Union has also pressed that it was not until an incident in September 1947 that Mr. Neame took a dislike to Sri Chaudhury. The incident was this: while Mr. Neame and the representatives of the workmen were discussing the Union's demands in September 1947, Sri Chaudhury, who was leading the Union's side, became excited and said

things for which Mr. Neame asked him to leave the room. That such an incident did take place is not denied; but it must be remembered that the Directors had already made up their minds that Sri Chaudhury was not to be appointed as Traffic Superintendent, long before Mr. Neame's return from the war; Mr. Neame was aware of it before he went to Tezpur in September 1947; and Sri Chaudhury himself could not have been ignorant of the Directors' attitude towards him and his doings, for otherwise he would not have written the letter (Ex. 6) of 6th June 1947.

I do not think that Sri Chaudhury has any legitimate grievance against the Company. In their service he has made money by ancillary means out of proportion to his income as Traffic Controller. To say the least his supervision was slack in the matter of the Company's earnings. He joined the Workmen's Union some time in 1947, quite possibly after he had sensed that the Directors had decided against appointing him as Traffic Superintendent, and alternately in the expectation of coercing them, he became an active member of that Union although he was a member of the supervisory and executive staff; according to his evidence "the Union office was in my house and is still there since April 1947. I was an active organiser, drafting letters, preparing returns, writing minutes. In October 1947 I took an active part in the strike ballot against the discharge of eleven employees and on account of other claims. I collected donations from outsiders to make the strike a success. There are many other activities of mine. The Company was aware of these activities since September 1947."

I have not been influenced in any way by the confidential report of the Deputy Commissioner which contained nothing new; I have considered Sri Chaudhury's explanation that he took the Civil and Military handling contracts at the express desire of the then Local Agent and that he wanted to resign from the Company in order to take up the contracts but was not allowed to do so as he was a member of a public utility concern. Allowing for everything that can be said in Sri Chaudhury's favour, the fact remains that there were facts and circumstances in consequence, of which the Company, in my opinion, were entitled to decide, as they did decide that Sri Chaudhury should not be selected for the post of Traffic Superintendent. This Tribunal is satisfied that Sri Chaudhury has not been victimised. There is no doubt that the Company had a fund of goodwill towards him, which he unfortunately frittered away. The very fact that the Company appointed him to be the Traffic Controller is *prima facie* evidence of their desire to upgrade him; that he should have failed is his misfortune. He was not dismissed; his services were terminated because the post which he held and which had been created as a war time measure was abolished, and he could not be retained as Traffic Canvasser as that post had been absorbed by the Traffic Superintendent.

It must be appreciated that the Management has at all times a general right to discharge an employee from service not only for proved misconduct but also where the employer has lost confidence in the employee; and in the absence of any enactment or rule to the contrary the employer is not bound to state reasons for such discharge nor is he under necessity to substantiate them. If, however, such discharge proceeds from unfair labour practice or victimisation then the Tribunal will undoubtedly intervene. It has been said that it would be an unfair labour practice or victimisation if an employee had been discharged "in order to break the Trade Union Organisation and the unity of the workers and to crush their movement for better living". In the case of Sri Chaudhury no case of victimisation or unfair labour practice or any violation of the principles of justice has been established; and this Tribunal must decline to interfere.

I have dealt at length with this case of Sri Chaudhury because of the importance which the Union has attached to it; there has been a suggestion that Sri Chaudhury was denied his rights because he was an Indian, and the Union has addressed me at great length on this issue. But upon analysis of the facts I have had no hesitation in holding that the Union is mistaken in the view that it has taken of Sri Chaudhury's case.

*Issue No. (4).*—This issue relates to the question as to whether the six persons who had been retrenched and had been subsequently taken back by the Company are entitled to be paid their salary for the period during which they remained out of work. I feel that whenever workmen are retrenched, they are entitled to retrenchment relief whether they are subsequently absorbed in the firm or not. I therefore direct that those eleven persons who had service to their credit for varying periods should get retrenchment relief on the following basis:

They shall receive (in addition to usual notice or pay in lieu of notice), 15 days consolidated wages (Basic pay plus Dearness allowance plus any other monetary benefits) for every year of continuous service, subject to a maximum of six months consolidated wages.

*Issue No. (5).*—On the subject of contract system of labour the workmen contend that it is generally recognised that the contract system is deleterious and should be abolished. The contract system in this concern is limited to 45 to 65 men who are required to load and unload goods moving by the trains. They are employed so as to provide a fluctuating labour force to deal with varying pressures of work. On the instructions of the Tribunal Mr. Neame has worked out certain figures, and I order the following arrangement to replace contract labour, which I hope will prove a satisfactory solution, and I am glad to say that the workmen accept it:

The Company shall employ permanently in the place of the present contract system 34 men and one Sardar-Foreman. The salary of the men will be fixed at Rs. 51 per month and of the Sardar at Rs. 71 per month, and they shall be entitled to one month's leave in the year. The men must work in shifts suitable to the load with a minimum of 8 hours per day, and the output per man is expected to be at a minimum of 45 maunds. The men will have quarters and these quarters will be subject to annual repairs, and there will be the usual medical attendance as at present. They must work on Sundays and holidays and at any hour, 48 hours a week, with overtime above that at 1½. Past service will not count for retiring bonus, and they will not be entitled to passes and P.T.O.

*Issue No. (6).*—On the subject of workmen's quarters, the Company states that 80% of the transportation or running staff have got quarters, which means about 70 persons out of a total of 223; all line staff have quarters, and 20 out of 53 of the workshop staff are also given accommodation. 44 Gangmen are given quarters in the main stations and the rest have their own quarters. All quarters are free and repaired every year. I have seen the quarters at Tezpur and they vary from good to bad; but it is quite impossible for me to make any order on the Company for the building of quarters or payment of house rent in its present financial condition.

*Issue No. (7).*—The workmen claim free passes to travel on this and on State Railways or money in lieu thereof. This small Railway naturally obtains a meagre response from the larger Railways on this question of passes, as practically nothing reciprocal is involved. I do not feel justified in making any change in the present arrangement.

*Issue Nos. (8) and (9).*—The workmen ask for old age provision and suggest that the Provident Fund which is at present limited to medical and clerical staff should be extended to everybody; they ask for a retiring gratuity at one month's basic wage for each year's service and a compulsory Contributory Provident Fund of 6½%. The Company states that the medical and clerical staff receive the benefit of the Contributory Provident Fund; those who are not covered by the Provident Fund get half month's wages at the time of retirement for every year's service; they contend that they cannot give both gratuity and Provident Fund, and state that both the Engineering and the Jute awards have rejected the claim for dual benefits. The Company referred me to their letter Ex. AH of 17th October 1947 in which they informed the workmen of their decision to give the above retiring bonus on the

scale approved by the State Railways. Considering the size of this Railway and its finances, I do not think that the present arrangement should be disturbed.

*Issue No. (10).*—The workmen claim that there should be a Draughtsmen's course and that the Company should give financial help for the education of workmen's children. They contend that although there are schools at Tezpur they are not free. The Company maintains that education is the responsibility of the State and that there is no need for Draughtsmen in their establishment. In my opinion there is no case made out for having Draughtsmen's classes. There is however, something to be said for help to educate the workmen's children. There are no doubt schools in Tezpur, but tuition fees is an item which the lower paid workmen find difficult to afford. Education is a social necessity and some relief is indicated. I direct that the children of all workmen whose total monthly earnings are less than Rs. 100 per month shall receive from the Company by way of educational help one-third of the schools fees for their children up to middle schools standard and free rail travel for school purposes by this Railway.

*Issue No. (11).*—The workmen ask for a welfare and recreation centre and a room where the workmen could meet. The Company had asked the workmen to prepare a scheme, but it had not been forthcoming; and the Company has expressed its willingness to provide adequate recreational facilities for the workmen as is done in similar concerns. It is ordered accordingly.

*Issue No. (12).*—Previously a small house had been provided for indoor medical treatment, but it has been discontinued since 1st April 1949 as arrangements have been made with the Government Civil Hospital for indoor treatment of employees; similar arrangements have been made with tea garden hospitals at three stations on the line, and all those three tea gardens are under the management of McLeod & Co. The workmen desire that the original system should be restored, but I do not see how the workmen have been prejudiced by the new arrangement. In the past year only 6 persons were treated as indoor patients, and the Company has made certain that there will always be room at Tezpur and other stations on the line for the admission of their ill workmen. The workmen claim that while medicine is free, patent medicines are charged at half price, and they want this also to be free, and they claim special diet in the hospital. The Company has expressed its willingness to meet these demands as far as possible consistently with their financial position. I do not propose to make any order in the matter because of the financial position of the Company; but the Company should make an endeavour to give patent medicines either free or at reduced prices whenever possible. The medical arrangements generally appear to be fair.

Copies of the following Exhibits are attached to this award : Exhibits 6, 22, 38, 39 and Z.

NOW, THEREFORE, THIS TRIBUNAL MAKES ITS AWARD IN TERMS AFORESAID, THIS THE 24TH DAY OF JUNE 1949.

F. JEEJEEBHOY, *Chairman,*

CALCUTTA ;

*Central Government Industrial Tribunal,*

*The 24th June 1949.*

MESSRS. McLEOD & Co., LTD.

Agents, Tezpur Balipara Railway,

CALCUTTA.

*Through the Local Agents, T.B. Railway, Tezpur.*

SIRS,

The undersigned most respectfully and humbly beg to state as follows :—

(1) That after Mr. Neame left for Military Service creating a vacuum in the smooth running of the Railway Traffic Services, the undersigned was selected from the staff to fill up the same as Traffic Controller *vide* letter No. A.6/42/1 of 29-3-42 and confirmed thereafter for his efficiency *vide* letter No. A.6/43/1 of 24-2-43.

(2) That for reasons unknown to the undersigned who was managing the works quite efficiently and to the satisfaction of his superior the Local Agents, a new post of Traffic Manager was created and the Loco Superintendent was put in there as Acting Traffic Manager with the charge of allocation of wagons on him while the rest of the Traffic Works was left with the undersigned *vide* letter No. 12/44/2 of 18-2-44.

(3) That the above arrangement was made in expectation of Mr. Neame's return to his former post and that for the same reason no voice of protest was made by the undersigned in his claim over the same.

(4) That attempts were made by some interested persons to create doubts in the mind of the Company regarding honesty and faithfulness of the undersigned over his having constructed a house and the purchase of an old car, concealing the fact that for all these, his income from the Military contract was responsible, which made the financial position of the undersigned quite sound.

(5) That later on the legitimacy of the taking up of contract works by the undersigned as Railway Officer was questioned but he was never given any opportunity to explain his conduct and to submit before the Company that he was compelled to undertake the handling contract under the Military Official who met Mr. E. A. Smith the Local Agents in a meeting and forced upon the undersigned to accept the job and *help war efforts*.

(6) That the past records and the service book together with the remarks of Mr. Jeff as reported on 30th July 1943 go to show that the undersigned has got the most legitimate claim to be the Highest Traffic Officer on the T.B. Railway and there can be none else except Mr. Neame who should have any right to supersede the claim of the undersigned.

(7) That the undersigned beg to refer to another fact of his efficiency in managing the whole affairs quite ably with raw and inefficient staff which had to be taken in difficult times of War. The enormous earnings of the Railway during war time was due to the tactful management by the undersigned.

Under the circumstances it is prayed that you would be graciously pleased to consider favourably the case of the undersigned in his claim over the post of the Highest Traffic Officer specially when the Company has accepted the principle of Indianizing the Officers staff as well for which act of kindness I shall remain ever grateful to you.

Your obedient servant,

DATED, TEZPUR ;  
The 6th June 1947.

Traffic Controller,  
T. B. Railway.



EXHIBIT 22

(Confidential)

## ANNEXURE 'E'

GOVERNMENT OF INDIA  
MINISTRY OF LABOUR

Regional Labour Commissioner (C)

12, Chowringhee Sqr.,

CALCUTTA.

No. CON-TU(58).

Dated May 24, 1948.

To

MESSRS. MCLEOD &amp; Co.,

28, Dalhousie Square,

CALCUTTA.

GENTLEMEN,

I have the honour to say that I visited Tezpur in the 2nd week of this month in connection with the resolution passed by the Executive Committee of the T. B. Railwaymen's Union in their meeting held on 24-3-48 and forwarded to me in their letter No. R/48/3/1, dated 30-3-48, with a copy to you, and discussed the points raised in the resolutions with the representatives of the Union and the Local Agent, and am to advise you as follows:—

(1) *Introduction of Revised Scales of Pay.*—In my letter of even No. dated 1-12-47, I recommended certain grades of pay for the employees of the Railway. My recommendation was accepted by you *vide* your letter No. 12/47/2/86, dated 6-12-47. Accordingly, your Local Agent drew up a list fixing the scales for the different categories of staff which was subsequently forwarded to the Union for their concurrence. The Union suggested certain alterations and your Local Agent forwarded the list and the Union's suggestions to you, together with his own comments. Your Mr. Neame saw me with the list, prior to my departure for Tezpur. I made certain suggestion in the proposed fixation of the grades, which were acceptable to you as conveyed to me *vide* your letter No. 12/48/2/13, dated 11-5-48. I took the list to Tezpur and the alterations suggested by me were further discussed with the Union officials who agreed with my suggestions, but requested for up grading the 3 remaining clerks, which I approved, and commended its acceptance to your Mr. Neame who has been to see me to-day, together with slight increments in the fixation of pay of a few employees. I request that these grades now be introduced forthwith with effect from 1-10-47 in terms of your letter No. 12/47/2/26, dated 6-12-47.

(2) Reference is invited to para. 6(a) of my letter of even No. dated 1-12-47 regarding the claim for promotion of the present Traffic Controller to the proposed post of Traffic Superintendent. Your allegation of corruption and dishonesty against the Traffic Controller was left with the Deputy Commissioner, Darrang, for confidential enquiry and report. A copy of the confidential report has since been received from the Deputy Commissioner, Darrang, and is forwarded herewith

for your information. If from your point of view you find anything objectionable in the report against your Traffic Controller, no action should be taken against him without giving him a chance to defend himself or explain his conduct.

(3) In my letter of even No. dated 1-12-47 I recommended the grade of Rs. 26 to Rs. 50 for Group B of class III employees who are inferior and unskilled categories of staff. I qualified my aforesaid recommendations saying that no grades recommended in my above letter should exceed those fixed in respect of the State Railway Employees under Pay Commission's Scales. As on subsequent examination it was found that this grade had exceeded, in the maximum, the Pay Commission's scales in respect of State Railway employees, I subsequently suggested the grade to be fixed at Rs. 26 to Rs. 39 which was in proportion to the Pay Commission's scales. This caused some amount of mis-understanding among the Union officials. When I explained the whole position to the Union people in my recent visit to Tezpur, they became satisfied.

(4) *Contractor's Labour.*—(a) With regard to my suggestion that the middle-man system namely the Sirdar, be replaced by that of their direct employment by the company under a foreman-in-charge, your representative explained that you could not see your way to do it so long as the local Steamer Company and the Government Railways continued to employ contractors.

(b) The representatives of the Contractor's Labour again requested me for the restoration of the cut in their rates. Your local agent explained that the cut was effected in view of the decrease in lead. I am inclined to think that the cut has been out of proportion to decrease in the lead. I am, therefore, to recommend that the rates be restored to some extent to allay the existing dissatisfaction among the labour.

(c) It is a matter of gratification to find that the quarters for the contractor's labour have been built to the satisfaction of all concerned.

(5) *Mr. Phanindra Kumar Sen.*—When a few months ago your Traffic Controller was away on leave and some traffic staff were discharged, Rai Sahib Hom Chandra Das, your Medical Officer, was asked by the Local Agent to look after the traffic work. He found it difficult to manage the work on account of shortage of staff caused by the discharge of the above mentioned employees. Thereupon Rai Sahib Das was asked to recruit some hands to fill up the vacancies. Mr. Phanindra Kumar Sen was one of the persons appointed by Rai Sahib Das. In the letter of appointment issued by Rai Sahib Das to Mr. Sen, it was not mentioned that the latter's appointment was temporary. About that time, Mr. Phanindra Kumar Sen got an appointment of a permanent job under certain private company in Gauhati. He refused to accept the offer thinking that he would permanently continue in his appointment under your Railway. Subsequently when the discharged employees were re-instated, Mr. Sen was naturally thrown out and is still unemployed. In view of the facts stated above, it will appear that he is suffering privations for no fault of his. As his is deserving case I recommend that you appoint him in a suitable vacancy as early as possible if and when it occurs.

I have the honour to be,  
Gentlemen,

Your most obedient servant,  
Sd. A. TALIB,

Regional Labour Commissioner (Central)  
CALCUTTA.

ANNEXURE 'D'

EXHIBIT 38

GOVERNMENT OF INDIA

MINISTRY OF LABOUR

Office of the Regional Labour Commissioner (Central),

No. 12, Chowringhee Square,

CALCUTTA.

No. CON-TU (58),

Dated December 1, 1947.

To

MESSRS. MCLEOD & Co. Ltd.,  
28, Dalhousie Square, West,  
CALCUTTA.

GENTLEMEN,

SUBJECT.—*Strike notice by the employees of the Tezpur Balipara Railway, Tezpur.*

I have the honour to say that the proposed revised scales of pay of the employees of the Tezpur Balipara Railway as contained in your letter No. 12/47/2/18, dated 20th October, 1947 addressed to the Local Agents having not been acceptable to the Union, the latter gave a notice of the employees intention to go on strike with effect from the mid-night of 16th November, 1947. On or about the 10th of November, I discussed the matter with your Mr. Kelly and Mr. Neame. Thereafter I sent a telegram to the Union asking for their representatives to be deputed to Calcutta for further discussion with you and me. The Union could not see their way to send any representative to Calcutta for what they called on such short notice. I conveyed this to your Mr. Kelly and told him that I had myself decided to leave for Tezpur on the 18th November, 1947, and requested him to send a representative there on behalf of the company. Accordingly, your Mr. Neame and myself reached Tezpur on the 19th November and a series of conferences with the representatives of the Union took place in which the points raised in the strike notice were discussed and considered. I am setting forth below the main points of the strike notice together with my recommendations thereon :—

(1) *Recognition of the Union.*—The Union having agreed to abide by the State Railway Rules regarding the recognition of trade unions, you told me that you were prepared to recognise the same. It appears that no formal letter to this effect has yet been issued to the Union. This should be done without any further delay and the Union should be consulted on all measures affecting the service conditions and welfare of the employees.

(2) *Payment of Interim Increment.*—The Assistant Labour Commissioner, Assam, recommended payment of interim increment pending the introduction of the revised scales of pay. This was subsequently endorsed by me. You agreed to pay an interim increment at the rate of Rs. 10 and 5 to the clerical and non-clerical staff respectively. The Union, however, demanded that Rs. 10 should be paid not only to the clerical staff but also to the skilled personnel as well. You were unable to agree to this, with the result that none of the employees excepting about 19 clerks drew their increment. In my discussion with the Union, I gathered that there was no chance of your offer being acceptable to the employees. Even supposing that you would eventually agree to pay the skilled personnel also at the rate of Rs. 10,

I am sure that the rest of the staff (to be paid @ Rs. 5) would still remain dissatisfied. A solution was, therefore, difficult to find except a reasonable flat rate. So, I persuaded the Union to agree that the Interim increment should be paid at a flat rate of Rs. 7 to all, and I am to recommend it to you for your acceptance. The Union will not object to your getting the refund of the difference @ Rs. 3 per month from the 19 clerks who have already drawn the same. But this should be done at very easy instalments.

(3) *Revised scales of pay.*—The revised scales of pay as contained in your letter referred to above was not acceptable to the Union. Firstly, even the initial pay did not make a near approach to those fixed by the Pay Commission in respect of State Railway employees. Secondly, they did not like the distribution of categories by clerical and non-clerical, and thirdly even if this distribution should remain, they demanded that skilled personnel should be in the same grade as clerical. You were not prepared to agree to this, because it would cost you a sum of Rs. 60,000 per annum which you stated to be absolutely beyond your means. Various alternatives were adopted and worked out, and the following is the minimum to which I could persuade the Union to agree and I commend it for your acceptance without reservation :-

#### GROUP A

*Grade I.*—Rs. 100—175 covering (1) Accountant, (2) Traffic Controller, (3) Cashier, (4) Senior Station Master, (5) Compounder, (6) Loco Head Clerks, (7) Workshop Time-keeper, (8) Senior Guard of 25 years standing.

*Grade II.*—Rs. 50—100 covering Assistant Accounts clerk and Head Typist, Traffic Auditor, Inspector of Station Accounts, Record and Statistical clerk, Store-keeper, all other Station Masters, Relieving Station Master, Signaller, Assistant Station Masters, all other Guards, T.T.Cs., Goods clerk, Parcel clerk, Booking clerk, Mail Guard, Transhipment clerk and Mr. K. Bhyia, 2nd clerk Loco as his personal and Assistant Goods clerk.

*Grade III.*—Rs. 40—55 covering Claims clerk, Establishment clerk, Assistant typist, Cash Assistant, Assistant Store-keeper, Co operative Store-keeper, Dresser, Workshop 2nd clerk.

#### GROUP B

*Grade I (a).*—Rs. 60—125 covering (Workshop) Head Workshop fitter, Head turner, Head Miller, Head Driller, Welder, Head Blacksmith, Head Carponter, Head Moulder, Oil Engine Driver and Fitter—(Locomotive)—Head Driver, Head Fitter, Head Boiler Maker,—(Carriage and Wagon)—Head Carriage Examiner,—(Engineering)—Mates and Hd. Mason.

*Grade I (b).*—Rs. 45—100 covering (Workshop) Fitter, Turners, Blacksmiths, Moulders, Carpenters, (Locomotive)—Drivers, Shunting Driver, Shed-man, Fitters, Boiler Makers (Carriage and Wagon),—Carriage fitters, Painters (Engineering) Key-men.

*Grade II.*—Rs. 30—60 covering (Workshop)—Assistant Miller, Hammermen, Oil Engine Drivers Assistant,—(Locomotive) Fireman, Steam-men, Assistant Boiler Makers, (Carriage and Wagon)—Oil-men, (Engineering)—Assistant Masen, P.W.I. Time-keeper, P.W.I. Carpenter, Shunting Janadur, Naharani Siding-in-charge.

*Grade III.*—Rs. 26—50 it includes all others.

It will be noticed that the difference of clerical and non-clerical has been eliminated. This is estimated to cost the Company about Rs. 35,000 per year. In my opinion, this should be within your means, as I gathered that you made a profit of

rupees sixty thousand last year and your average profit per annum is about rupees forty thousand, besides you have a reserve fund of nearly a lakh of rupees. It may be mentioned that these grades, particularly in the higher categories are still below those fixed by the Pay Commission in respect of State Railway employees.

(4) *Discharge of 11 Employees.*—You stated that these men were discharged as they were surplus to requirements. The Union was firmly of the opinion that this was not the case, as the number of trains and other things having remained the same, there could not be any question of staff being surplus to requirements. *Prima facie* it was difficult to refute the Union's argument. Therefore, in order to be able to decide the matter in a rational manner, I asked my labour inspector (Central), Gauhati, to undertake job analysis of the posts on the spot to see if these men were really surplus to requirements. A copy of his report on the subject is enclosed for your perusal and information. It will be observed that the discharge of all the men could not be justified and I am to recommend that at least one discharged man from each category (*i.e.* at least 5 out of 11), having greater length of service than the other discharged man or men in the same category, should immediately be put back to work. With regard to the rest of the discharged men, I would suggest that their claims should be given priority in future recruitments.

In conclusion, I am to repeat that the above are the minimum which I could persuade the Union to agree after prolonged deliberations. Therefore, if any of the above recommendations is not acceptable to you, there is no room for further discussion or negotiations, and in such case the only alternative left to me is to recommend to the Government to refer the dispute to a Tribunal. I would, therefore, request you to be good enough to communicate your decision to me within seven days from the date of this letter.

Besides the above 4 major demands, there were a few others which are as follows :—

- (a) Your present Traffic Controller represented that he had managed the work of Traffic Superintendent since Mr. D. A. Neame left for War Service and therefore he should now be appointed as such. On behalf of the Company, it was explained that there were several charges of corruption and dishonesty against the Traffic Controller, and therefore he did not deserve promotion. I sensed that there was a bit of local politics in the whole affair, as the Traffic Controller was also a Municipal Commissioner. The Union was interested in his case. I left it to Mr. S. N. Moitra, I.C.S., Deputy Commissioner, Darrang, to decide the genuineness of his claims for promotion.
- (bi) The condition of the contractor's labour is extremely unsatisfactory. The middleman system, namely, the Sardar, is largely responsible for their miserable plight. Therefore, the present sardari system should be abolished as early as possible and the men should be the direct employees of the Company under a Foreman-in-Charge. This is not likely to involve any additional expenditure to the Company, as it was stated that the men could be accommodated on reasonable wages within the amount paid to the contractor.
- (bii) It was complained that the contractor's rate has been drastically cut down. This may be looked into and if it has caused any hardship to the men, it should be remedied.

(biii) The quarters provided for the contractor's labour are unfit for human habitation. I was given to understand that the Management had undertaken to build new quarters for them. It is suggested that this should be expedited.

I have the honour to be,

Gentlemen,

Your most obedient servant,

(Sd.) A. TALIB,—1-12-47,

*Regional Labour Commissioner (Central),*

*CALCUTTA.*

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Copy together with a copy of the L.I. (C), Gauhati's report, for information, forwarded to :—

- (1) Chief Labour Commissioner, Govt. of India, New Delhi.
- (2) Deputy Commissioner, Darrang, Tezpur, Assam.
- (3) Labour Commissioner, Govt. of Assam, Shillong.
- (4) Conciliation Officer, Govt. of India, Calcutta.
- (5) Labour Inspector (Central), Gauhati.
- (6) General Secretary, T. B. Railwaymen's Union, Tezpur.

(Sd.) A. TALIB,

*Regional Labour Commissioner (Central),*

*CALCUTTA.*

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**ANNEXURE 'B'**

**EXHIBIT 39.**

**T. B. TRAMWAY CO. LTD.**

*6th December, 1947.*

No. 12/47/2/26.

MESSRS. KILBURN & Co., L.A.

T. B. Ry., TEZPUR.

DEAR SIRs.

*T. B. Railway Men's Union,*

*Our letter No. 12/47/2/18 of 20-10-47.*

As a result of the recommendations made by the Regional Labour Commissioner (Central), Calcutta in his letter No. CON-TU (58) of 1st December 1947, the Directors have approved the following grading of the staff with effect from 1st October 1947.

subject to the fact that none of these grades will exceed those sanctioned by the Railway Board in respect of State Railway Employees:—

GROUP "A"

| Grade. | Minimum<br>Basic<br>Salary<br>p.m. | Maximum<br>Basic<br>Salary<br>p.m. | D.A.<br>p.m. | Covering.   |
|--------|------------------------------------|------------------------------------|--------------|---|
| I      | Rs.<br>100                         | Rs.<br>175                         | Rs.<br>25    | Accountant, Traffic Controller, Cashier, Senior Station Master, Compounder Loco, Head Clerk, Workshop Time-keeper, Senior Guard of 25 years' standing.  |
| II     | 50                                 | 100                                | 25           | Asst. Accounts clerk & Head typist, Traffic Auditor, Inspector of Station Accounts, Record & Statistical clerk, Storekeeper. All other S.M.'s. Relieving S.M. Signaller, A.S.M.'s, all other guards, T.T.C.'s, Goods clerk, Parcels clerk, Mail guards, Transhipment clerks, Asst. Goods clerk, and as a personal concession Babu K. Bhuyan at present the Loco. 2nd clerk. |
| III    | 40                                 | 55                                 | 25           | Claims clerk, E.C. Asst. Typist, Cash Assistant, A.S.K.'s, Co-operative store keeper, Dresser Workshop 2nd Clerk.   |

GROUP "B"

|      |    |     |    |  |
|------|----|-----|----|--|
| I.A. | 60 | 125 | 25 | <p><i>Workshop.</i>—Head fitter, Head Turner, Head Miller, Head Driller, Welder, Head Blacksmith, Head Carpenter, Head Moulder, Oil Engine Driver and Fitter.</p> <p><i>Locomotive.</i>—Head Driver, Head Loco, Fitter, Head Boiler Maker.</p> <p><i>Carriage &amp; Wagon.</i>—Head Carriage Examiner.</p> <p><i>Engineering.</i>—Mates, Head Mason.</p> |
|------|----|-----|----|--|

GROUP "B"—*contd.*

| Grade. | Minimum<br>Basic<br>Salary<br>p.m. | Maximum<br>Basic<br>Salary<br>p.m. | D.A.<br>p.m. | Covering.  |
|--------|------------------------------------|------------------------------------|--------------|--|
| IB     | Rs.<br>45                          | Rs.<br>100                         | Rs.<br>25    | <i>Workshop.</i> —Fitters, Turners, Blacksmiths, Moulders, Carpenters.<br><i>Locomotive.</i> —Drivers, Shunting driver, Shed-man, Fitters, Boiler Makers.<br><i>Carriage &amp; Wagon.</i> —Carriage Fitters, Painter.<br><i>Engineering.</i> —Keymen.  |
| II     | 36                                 | 60                                 | 25           | <i>Workshop.</i> —Asst. Miller, Hammermen, Asst. to Oil Engine Driver.<br><i>Locomotive.</i> —Firemen, Steam men, Asst. Boiler Makers.<br><i>Carriage &amp; Wagon.</i> —Oil men.<br><i>Engineering.</i> —Asst. Mason, PWI Time keeper, PWI Carpenter, Shunting Jamadar, Nakhroni siding-in-charge. |
| III    | 26                                 | 50                                 | 25           | All others not included in the above.  |

*D.A.*—The dearness allowance referred to above will continue to be paid to the staff in addition to their pay but will be withdrawn gradually in accordance with the downward trend of the cost of living index if and when it occurs.

*Annual Increments and Efficiency Bars.*—We are going into this next week in consultation with the Regional Labour Commissioner and will advise you further in due course.

We shall be obliged if you will, in consultation with the President of the Union, the Officers of the Railway and Mr. J.G. Maitra, draw up for our scrutiny and approval revised lists of staff according to their departments, based on the grading given above. These lists should include the following details :— (1) Serial No., (2) Name, (3) Designation, (4) Grade, (5) Present total Monthly Emoluments, (6) Suggested Revised Basic Salary, (7) D.A.

*Interim Increment.*—You will be in order on paying all staff @ Rs. 7 p. m. each with retrospective effect from Aug. 46 to 30 Sept. 47 (14 months), and in recovering from those who have already drawn the interim relief @ Rs. 10 p. m. the excess amount thus paid to them. We suggest that this refund should be at the rate of Rs. 3 p.m.

Yours faithfully,

For MCLEOD & CO., LTD.,  
(Sd)

*Agents.*



EXHIBIT Z

TEZPUR BALIPARA RAILWAY

Our Reference.

Your Reference.

No. A.6./42/1.

No.

Dated, 28th March, 1942

Dated

From The Local Agents, T. B. Railway,  
Tezpur.

To Babu J. C. Chowdhury,  
Tezpur.

SUBJECT.....

DEAR SIR,

With effect from the 1st April, 1942 you are appointed Traffic Controller.

Your duties will include the undernoted special points :—

- (a) Placing of wagons.
- (b) Rates.
- (c) Arranging expeditious clearance off of all Cargo both through and local.
- (d) Maintenance of earnings Graphs.
- (e) Traffic canvassing etc. etc.

In other words you are held responsible for the smooth running of the Railway and must pay particular attention to ECONOMY.

To commence with, you will draw up the complete wagon position in detail.

All orders, will be issued in consultation with the undersigned.

Your duties are exclusively "traffic" and "traffic control" and entirely separate from Audit and Accounts.

Your faithfully,

Pro. KILBURN & CO.,

(Sd.)

Local Agents.

H. KHANNA, Dy. Secy

